

CHARTER OF THE CITY OF SAN DIEGO

Section 90.2

1. Addition voted 06-05-1956; effective 01-10-1957

Section 90.2.

“City” means The City of San Diego.

“This section” as used in this section means this Section 90.2.

“Sewer” or “sewers” as used in this section means sanitary sewers of the City.

“Sewer system” as used in this section means the sanitary sewer system of the City for the collection, transmission, treatment and disposal of sewage and includes all parts thereof.

“Sewer service charges” as used in this section includes fees, tolls, rates and rentals for service by or the use of the sewer system or any part thereof, or in any manner derived from the sewer system or any part thereof.

“Revenues” as used in this section means, all sewer service charges received for, and all income and receipts derived by the City from the operation of the sewer system or any part thereof or arising from the sewer system or any part thereof, including any sums received by the City from other cities, districts or public corporations (including the United States of America and the State of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations. “Revenues” shall not be construed to include taxes or assessments levied by the City.

“Sewer revenue fund” as used in this section means the fund derived from “revenues” as hereinbefore in this section defined.

- (1) Revenue bonds to provide moneys for the purpose of acquiring , constructing, reconstructing, replacing, extending or improving sewers, sewer works and sewage treatment and disposal works, including all lands, easements and property necessary therefor and including facilities for the reclamation of water or other by-products of the sewerage system of the City

may be issued as provided in this section. Any of the sewers or works or any part thereof may be located outside the City. Such revenue bonds shall not constitute an indebtedness of the City but shall constitute obligations which shall be payable, principal and interest and any premiums upon the redemption thereof prior to maturity only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds issued to refund said revenue bonds or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable only from the fund from which the revenue bonds to be refunded are to be payable. No restrictions or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and no action or proceeding not required by this section shall be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the City or any other revenues of said City except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.

- (a) The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under any provisions of this charter where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the City and are not payable from taxes levied by the City and such revenue bonds shall not be deemed indebtedness of the City within the meaning of the debt limitation provisions contained in sections 76 and 90 of this charter or in any other section thereof.

(2) The Council may issue revenue bonds payable from the Sewer Revenue Fund pursuant to and in the manner provided in this section after recommendation by the City Manager that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not be in any particular form.

(3) After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the City at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted no recommendation of the City Manager shall be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the question submitted to the qualified voters of the City shall be the purposes stated in such resolution. In the event that Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

The ordinance calling the election shall:

- (a) state the purposes for which the bonds are proposed to be issued;
- (b) state the principal amount of the bonds;
- (c) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semi-annually;
- (d) call the election and fix the election date;
- (e) fix the manner of holding the election;
- (f) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the City.

The question may be submitted at a special election called for that purpose or at any City election and any special election called for the purpose of voting upon a question of issuing bonds under this section may be consolidated with any election at which all of the qualified voters residing within the City are entitled to vote. Such consolidation may be made in any manner authorized under the Elections Code of the State of California or under the Elections Code of the City.

(4) The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the City, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the question of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the City or the electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

(5) The Council may issue all of such bonds in one issue or may divide the principal amount of any issue into two or more series and fix different dates of issuance and maturity for the bonds of each series. The Council may fix a date not more than five years from the date of issuance for the earliest maturity of each issue or series of bonds. Beginning with the date of the earliest maturity of each issue or series not less than one-fortieth of the indebtedness of such issue or series shall be paid every year; provided, however, the bonds of any issue or series may be made to mature and become payable in approximately equal total annual installments of interest and principal during the term of the bonds, computed from the first year in which any part of the principal shall mature to the date of final maturity. The determination of the Council as to what constitutes approximately equal total annual installments of interest and principal shall be final and conclusive.

Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of issue of said bonds, and the maturities thereof.

Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this

section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision 1. REVENUE BONDS – TERMS AND CONDITIONS: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the term and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

(a) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recitals of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons:

(b) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;

(c) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said City and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable into the sewer revenue fund, to provide revenues sufficient to pay, as the same become due, principal and interest of all revenue bonds payable out of said sewer revenue fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from the sewer revenue fund, and the necessary expenses of maintaining and operating the sewer system of the City. The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the City or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;

(d) The collection, deposit and safekeeping of the revenues; the permissible uses thereof; provided, however, that such revenue may be used only as authorized in this section and by any ordinance providing for the issuance of revenue bonds under this section. Nothing in this section shall restrict the Council in its discretion in any ordinance authorizing the issuance of revenue bonds under this section from providing for the payment of the expenses of maintenance and operation of the sewer system of the City prior to or subsequent to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;

(e) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds, including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;

(f) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks; and in case of loss the application of the insurance proceeds;

(g) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system of the City or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of said ordinance;

(h) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund over any revenue bonds theretofore or thereafter issued and payable out of said fund;

(i) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of provisions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;

(j) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond,

coupon or interim certificate of any such issue is lost, destroyed or mutilated;

(k) Any other provision (including covenant) valid under the Constitution of the State of California and the United States of America.

Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum.

Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.

Subdivision 2. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

(a) No bond shall run more than forty years from the date of issuance thereof;

(b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund, but this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds or the payment thereof from premium and accrued interest received upon the sale of the bonds;

(c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issuance of said bonds. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;

(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been approved at the election thereon; (2) that said proceeds may be used for the payment of interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpected funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

(6) Refunding revenue bonds may be issued for the payment or redemption of any revenue bonds issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of accrued interest and of any premiums thereon and all expenses of such refunding. Refunding revenue bonds shall be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder. The ordinance providing for the issuance of refunding bonds shall be subject to referendum in the same manner as other ordinances of the City.

(7) To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

(8) The Council may at any time establish and collect sewer service charges and must establish and collect such sewer service charges as required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that the sewer service charges shall be collected with and not separately from the water rates of said City and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of non-payment of any part of the bill for the sewer service charge and water rate, the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council also may take any and all steps to provide, establish and collect sewer service charges.

All "revenues" shall be paid into the Sewer Revenue Fund and shall be used only for the following purposes: (1) paying the cost of maintenance and operation of the sewer system of The City of San Diego; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption, of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system of the City or any part thereof.

Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.

Moneys derived from sewer service charges and in the Treasury of The City of San Diego unincumbered at the time revenue bonds are first issued under the provisions of this section shall thereafter be used only for purposes permitted under this section. Interest on investments of any fund created by or under the authority of this section shall be credited to any such fund.

(9) Nothing in this section shall be deemed to restrict or prevent the City from issuing general obligation bonds for sewer purposes. General obligation bonds of the City may also be issued to refund any revenue bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the City voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called the charter of the City.

Nothing in this section shall be construed to prevent or restrict the City from expending funds derived from taxes for the maintenance and operation of sewers or the construction of sewers, but no funds derived from taxes shall be used for the payment of principal or interest of any revenue bonds issued under this section and no funds derived from taxes shall be considered "revenues" as in this section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed to prevent or restrict the City from levying special assessments for the acquisition and construction of sewers or sewer works and such assessment shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed as implying any doubt of the power of the City to establish sewer service charges prior to adoption of this amendment.

2. Amendment voted 11-08-1960; effective 01-09-1961

Section 90.2: Sewer

Unless the context otherwise requires, the definitions contained in this section shall govern the construction thereof.

"This section" as used in this section means this Section 90.2.

"City" means The City of San Diego.

"Council" means the Council of The City of San Diego.

"Bond" or "bonds" means sewer revenue bonds issued hereunder payable from the Sewer Revenue Fund.

"Sewer" or "sewers" as used in this section means sanitary sewers of the City.

"Sewer system" as used in this section means all sanitary sewers, sewer works, sewage treatment and disposal works and facilities of the city for the collection,

transmission, treatment or disposal of sewage and comprises the entire system of sewers and sewer works and facilities of the city and includes all parts thereof, whether physically connected to other parts of the system or otherwise, and shall include all additions thereto, whether physically connected to other parts of the system or otherwise, and all extensions and improvements of the sewer system or any part thereof. Nothing herein shall preclude the construction of facilities for the reclamation of water from sewage in the sewer system and the city may at any time determine whether such facilities or any portion thereof shall be constructed and operated as a part of the sewer system or as a part of the water system, or otherwise.

“Sewer service charges” as used in this section means charges, fees, tolls, rates and rentals established or imposed by the city for service by or for the use of the sewer system or any part thereof.

“Revenues” as used in this section means all sewer service charges received, and any sums received by the city from other cities, districts or public corporations (including the United States of America and the state of California) under contracts providing for the transmission, treatment or disposal of sewage from such other cities, districts or public corporations through or by means of the sewer system or any part thereof, and all other income and revenue derived by the city from the operation of the “sewer system” or any part thereof. “Revenues” shall not be construed to include taxes or assessments levied by the city.

“Sewer Revenue Fund” as used in this section means the Sewer Revenue Fund heretofore established into which revenues from the sewer system have been paid, and said fund has been, is and shall be derived from “revenues.”

Subsection 1. Revenue bonds to provide money for the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewers, sewer works, sewage treatment plants, works and facilities, and sewage disposal works or facilities which will be additions to, extensions and improvements of the sewer system, and for the reconstruction or replacement of parts of the sewer system, including all necessary equipment, appurtenances and appurtenant work and the acquisition of all lands, easements and property necessary therefor and for facilities for the reclamation of water from sewage in the sewer system (if such reclamation facilities are to be constructed and operated as a part of the sewer system) may be issued as provided in this section. Any issue of revenue bonds may be for any or all of said purposes. To any extent necessary or convenient, any of the sewers, plants, works or facilities or any part thereof may be located outside the city.

Subdivision A. Revenue bonds issued under this section shall not constitute an indebtedness of the city but shall constitute obligations which shall be payable,

principal and interest, and any premiums upon the redemption thereof prior to maturity, only from the Sewer Revenue Fund; provided, however, that this shall not preclude the payment or redemption thereof from the proceeds of refunding bonds issued to refund said revenue bonds, or the use of accrued interest and premiums paid upon the sale and delivery of the revenue bonds for the payment of principal thereof or interest thereon, or the payment out of the proceeds of any bonds of the whole or a part of the interest accruing on said bonds during the period of acquisition and construction of the work to be paid for out of such proceeds and for the first six months thereafter.

Subdivision B. Refunding revenue bonds for the purpose of refunding any revenue bonds issued under this section may be issued as provided in this section and shall be payable from the Sewer Revenue Fund. No restriction or limitations upon or procedure for the issuance of bonds in other sections of this charter shall apply to revenue bonds issued under this section (including refunding revenue bonds) and this section shall constitute complete authority for the issuance of such revenue bonds (including such refunding revenue bonds) and any action or proceeding not required by this section shall not be necessary for the valid authorization and issuance of such revenue bonds. No revenue bond issued under this section or any interest payable thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city or any other revenues of said city except such revenues as are required under the provisions of this section to be paid into the Sewer Revenue Fund.

Subdivision C. The limitations upon bonded indebtedness of The City of San Diego contained in Sections 76 and 90 of this charter or in any other section or provision thereof shall not apply to revenue bonds issued under this section or under any provisions of this charter or under any general law of the State of California where such revenue bonds are payable exclusively from a special fund derived from revenues obtained from any public utility or improvement of the city and are not payable from taxes levied by the city and such revenue bonds shall not be deemed indebtedness of the city within the meaning of the debt limitation provisions contained in Sections 76 and 90 of this charter or in any other section thereof.

Subsection 2. To provide money for the purpose of the acquisition and construction of sewer mains, interceptor sewers, pumping plants, trunk sewers, outfall sewer, sewer works, sewage treatment plant, works and facilities, sewage disposal works and facilities and submarine ocean outfall sewer, which will be additions to, extensions and improvements of the sewer system, including for the foregoing all necessary equipment, appurtenances and appurtenant work and including the acquisition of all lands,

easements and property necessary therefor, and including reconstruction or replacement of parts of sewers and reconstruction of sewer facilities necessary for any of the foregoing, the Council is hereby authorized to issue, in one issue or in separate issues or series from time to time, under this section, revenue bonds in total principal amount not to exceed \$42,500,000. The maximum rate of interest on said bonds shall not exceed six per cent per annum, payable semiannually. Revenue bonds, if any, issued under this section in excess of said sum of \$42,500,000 shall be authorized by proceedings taken in the manner hereinafter provided under Subsection 3.

Subsection 3. Except as provided in Subsection 2 above and except refunding sewer revenue bonds, revenue bonds payable from the Sewer Revenue Fund shall be authorized in the manner provided in this Subsection 3.

The first step in the proceedings shall be a recommendation by the City Manager that bonds be issued hereunder, which recommendation shall state generally the purposes of the revenue bond issue and the principal amount thereof. Such recommendation need not be in any particular form. After the recommendation by the City Manager has been received by the Council it may adopt an ordinance finding the need for the issuance of revenue bonds under this section for the purposes set forth in the recommendation of the City Manager. The Council, by said ordinance, shall submit to the qualified voters of the city at an election held for that purpose the question of issuing revenue bonds pursuant to this section to provide moneys for the purposes stated in the recommendation of the City Manager.

The Council, by a vote of two-thirds of the members thereof, may adopt a resolution stating that it determines to proceed under this section without a recommendation by the City Manager. Any such resolution also shall state generally the purposes of the proposed revenue bond issue and the principal amount thereof and in the event such resolution is adopted the recommendation of the City Manager shall not be required and the ordinance shall find the need for the issuance of revenue bonds under this section for the purposes stated in the resolution and the purposes stated in the proposition submitted to the qualified voters of the city shall be the purposes stated in such resolution. In the event the Council adopts a resolution to proceed without the recommendation by the City Manager, the ordinance calling the election may be adopted only by a vote of at least two-thirds of the members of the Council and at a meeting subsequent to that at which the resolution was adopted.

Subdivision A. The ordinance calling the election also shall:

- (1) state the purposes for which the bonds are proposed to be issued;
- (2) state the principal amount of the bonds;
- (3) state the maximum rate of interest on the bonds, which shall not exceed six per cent per annum, payable semiannually;

(4) call the election and fix the election date;

(5) fix the manner of holding the election;

(6) fix the manner of voting for or against the issuance of the bonds.

In all particulars not stated in said ordinance the election shall be held and the votes canvassed in the manner provided by law for general municipal elections in the city.

Subdivision B. The proposition shall be submitted at a special election called for that purpose and any special election called for the purpose of voting upon a proposition to issue bonds under this section may be consolidated with any city or other election at which all of the qualified voters residing within the city are entitled to vote. Such consolidation may be made in the manner authorized under the Elections Code of the State of California or under the Elections Code of the city.

Subdivision C. The ordinance shall be published once a week for two succeeding weeks in the official newspaper of the city, the first publication to be at least 21 days prior to the election. No other notice of such election need be given. If a majority of the voters voting on the proposition of issuing the bonds vote in favor of the issuance thereof bonds in an amount not exceeding the amount stated in the ordinance calling the election may be issued.

No error, irregularity or omission in the election or in any of the proceedings prior thereto which does not affect the substantial rights of the people of the city or the electors voting at the election at which any revenue bonds are authorized under this section shall invalidate the election.

Subsection 4. The Council may issue all bonds authorized at an election in one issue or in two or more series and may fix different dates and maturities for the bonds of each series. It may issue all bonds authorized by Subsection 2 hereof in one issue or in two or more issues or series and may fix different dates and maturities for the bonds of each issue or series. The bonds of any issue or series issued under this section may be serial bonds or term bonds or any combination thereof with such maturities as may be determined by the Council, but no bond shall run more than forty (40) years from its date.

Any ordinance providing for the issuance of bonds hereunder shall recite the objects and purposes for which the bonds are to be issued, fix the principal amount of the bonds to be issued pursuant to such ordinance, the maximum rate of interest to be payable thereon, not to exceed six per cent per annum, payable semiannually, the date of said bonds, and the maturities thereof.

Said bonds shall be issued in negotiable form and shall be negotiable. The recitals of regularity of proceedings in any revenue bond issued and sold under this section shall be conclusive evidence of compliance with the provisions of this section and of the validity of such bonds, and no bona fide purchaser of any such bond containing the recital permitted by this section shall be required to see to the existence of any fact or to the performance of any condition or to the taking of any proceeding required prior to the actual issuance and delivery of said bonds or to the application of the purchase price paid for said bonds.

Subdivision A. REVENUE BONDS - TERMS AND CONDITION: In any ordinance providing for the issuance of revenue bonds under this section, the Council may fix the terms and conditions thereof (including covenants) and may in any article, section, sentence or clause thereof make such provision (including covenant) as it may deem necessary or desirable to facilitate the issuance and sale of the bonds or for the protection or security of the holders thereof, including, without affecting the generality of the foregoing, any or all of the following:

(1) The denomination or denominations of the bonds, the medium of payment thereof, the place or places of payment thereof, which may be within or without the State of California, the form of said bonds (including recital of regularity) and of interest coupons pertaining thereto, the form, denomination and conditions of any temporary bonds or interim certificates, and the manual (one signature must be manual) and facsimile signatures to be affixed to said bonds (definitive or temporary) or interim certificates, and the facsimile signature to be affixed to interest coupons;

(2) The terms and conditions under which said bonds or any part thereof may be paid and redeemed before maturity (including the premiums, if any, payable upon bonds redeemed prior to maturity), exchanged, registered, transferred, or negotiated;

(3) Covenants or provisions relating to rates (called in this section Sewer Service Charges). Such sewer service charges shall be fixed by the Council of said city and, with reasonable allowances for contingencies, must be at least sufficient, together with other revenues, if any, payable into the Sewer Revenue Fund, to provide revenues sufficient to pay, as the same becomes due, principal and interest of all revenue bonds payable out of said Sewer Revenue Fund (including all payments required to be made into reserve and sinking funds, if any, for said revenue bonds) and all other obligations payable from the Sewer Revenue Fund, and the necessary expenses of maintaining and operating the "sewer system." The ordinance may also state the extent, if any, to which such sewer service may be furnished or rendered to the city free or to the United States of America, the State of California, or to any city or other public corporation or body at lower rates than otherwise charged;

(4) The collection, deposit and safekeeping of the revenues and the permissible uses thereof; provided, however, that the cost of maintenance and operation of the sewer system (and only such cost) shall be payable from the Sewer Revenue Fund prior to the payment of principal and interest of the revenue bonds or the setting aside in the bond service, sinking, redemption, reserve, or other fund, monthly or otherwise, of funds therefor;

(5) The special fund or funds to be established and maintained for the payment of principal and interest of the bonds; including reserve, sinking, bond service, redemption, and trust funds, and any revenue bond payable from the Sewer Revenue Fund may be paid from any such special fund set up therefor; the permissible investments of moneys in said funds, or any thereof; the accounts and records to be kept, audits thereof and examination thereof by bondholders and others;

(6) Carrying of insurance upon any sewers, sewage treatment plant or plants or sewage disposal works against any or all risks, and in case of loss the application of the insurance proceeds;

(7) Prohibition against or limitations upon the sale, lease or other disposition or transfer of the sewer system or any substantial part thereof, and the use of any funds derived from any sale, lease or other disposition or transfer permitted under the terms of said ordinance;

(8) Limitations upon the issuance of any additional bonds payable from the Sewer Revenue Fund, but no bond shall be issued pursuant to this section or under any other provision of this charter or any other law having any priority in payment of principal or interest out of such fund or out of any revenues payable into such fund over any revenue bonds theretofore issued and payable out of said fund;

(9) Provisions whereby the consent or agreement of a stated percentage or number of the holders of the bonds may bind all holders to modifications of provisions of any ordinance, resolution or order authorizing or providing for the issuance of such bonds or the sale thereof, or to a refunding of said bonds and to calls or exchanges in connection with such refunding;

(10) For the issuance of a duplicate in the manner and upon such terms and conditions as the Council may determine, in the event any bond, temporary bond, coupon or interim certificate of any such issue is lost, destroyed or mutilated;

(11) Any other provision (including covenant) valid under the Constitution of the State of California and the United States of America.

Such ordinance shall be subject to referendum in the manner that other ordinances of the City are subject to referendum.

Any ordinance providing for the issuance of any revenue bonds under this section and all other ordinances, resolutions or orders in the proceeding for the issuance of said bonds shall constitute a contract with the holders of the bonds and may be enforced by any holder by mandamus, injunction or any applicable legal action, suit, proceeding or other remedy.

Subsection 5. LIMITATIONS. Revenue bonds issued under this section shall be issued substantially in compliance with the following limitations:

(a) No bond shall run more than forty years from its date;

(b) Said bonds shall be designated "Sewer Revenue Bonds" and each bond shall state on its face that it does not constitute an indebtedness of the City but is an obligation payable, principal and interest, and premiums, if any, upon the redemption thereof only from the Sewer Revenue Fund. Such statement shall not preclude the payment or redemption thereof from the funds or moneys specified in Subdivision A of Subsection 1;

(c) Said bonds shall be sold only at public sale following such notice as the Council by resolution or order may prescribe; provided, however, that if no bid or no satisfactory bid is received pursuant to such notice the Council may reject all bids received, if any, and may thereafter sell such bonds at public or private sale; provided, further, that the provisions of this subsection shall not apply to the exchange of any refunding bonds for outstanding bonds. Any such revenue bonds may be sold at a fixed rate of interest or the bidders may be invited to state the rate or rates of interest at which they will purchase said bonds, but no rate of interest on any of the bonds shall exceed the maximum rate stated in the ordinance calling the election to vote upon the issuance of said bonds or as to bonds authorized by Subsection 2 hereof the maximum rate stated in said Subsection 2. If the bidders are invited to state the interest rate or rates, then upon the acceptance of a bid the Council shall by resolution or order, which shall not be subject to referendum, fix such interest rate or rates as have been bid by the successful bidder as the rate or rates of interest on the bonds sold;

(d) Said bonds shall be sold for not less than par and accrued interest to date of delivery. The proceeds from the sale (except premium and accrued interest which shall be paid into the bond service or other fund designated or established for the payment of principal and interest of the bonds) shall be paid into the construction fund designated by the ordinance providing for issuance of such bonds and shall be applied exclusively to the objects and purposes set forth in such ordinance; provided, however, (1) that the Sewer Revenue Fund from which the bonds are payable may be reimbursed from such proceeds for expenditures for purposes for which the bonds were issued made from such Sewer Revenue Fund after the issuance of the bonds has been authorized by the voters or as to bonds authorized by Subsection 2 hereof, after the date this amendment becomes effective; (2) that said proceeds may be used for the payment of

interest on said bonds during the period of acquisition and construction and for the first six months thereafter; and (3) that when the objects and purposes for which the bonds are issued have been accomplished any remaining unexpended funds derived from the sale of said bonds shall be used for the payment of principal and interest of said revenue bonds or for the redemption of any callable bonds thereof.

Subsection 6. Refunding revenue bonds payable from the Sewer Revenue Fund may be issued for the payment or redemption of any revenue bonds, issued pursuant to this section and such refunding bonds may be issued in principal amount sufficient to refund the outstanding bonds proposed to be refunded thereby, including payment of interest to maturity on any noncallable bonds to be refunded and of accrued interest to date of redemption and of any premiums payable upon redemption of bonds which by their terms are subject to call and redemption prior to maturity, and all expenses of such refunding. Refunding revenue bonds may be authorized, issued and sold substantially in the manner provided for the issuance and sale of other revenue bonds hereunder or may be exchanged for the outstanding bonds to be refunded upon such terms and conditions as may be stated in the ordinance authorizing such refunding bonds, except that no election shall be necessary to authorize the issuance of refunding bonds hereunder and the first step in the proceeding shall be the ordinance of issuance. The ordinance providing for the issuance of refunding bonds shall be subject to referendum in the same manner as other ordinances of the city.

Subsection 7. To the extent that any provision of any ordinance authorizing the issuance of revenue bonds pursuant to this section or any provision of any ordinance, resolution or order pertaining to such revenue bonds adopted pursuant to the authority of this section is inconsistent with any of the provisions of any other section of this charter the provisions of such ordinance, resolution or order shall control so long as any of the bonds or coupons to which the same pertain are outstanding and unpaid. No bond shall be deemed to be outstanding and unpaid within the meaning of this section if moneys for the purpose of paying the same or redeeming the same prior to maturity and sufficient therefor have been irrevocably set aside in a bond service fund, sinking fund, redemption fund, or other trust fund created to insure the payment or redemption thereof.

The Council is authorized to take any and all steps necessary or convenient for the authorization, issuance and sale of revenue bonds under this section and for the payment or redemption thereof.

Subsection 8.

Subdivision A. The Council may at any time establish and provide for the collection of sewer service charges and must establish and provide for the collection of such sewer service charges as are required by any ordinance providing for the issuance of revenue bonds under this section. Sewer service charges shall not be deemed taxes or assessments within the meaning of any

section of this charter and shall not be enforceable by any lien upon real property. "Sewer service charges" may be collected with water rates, fees or charges (herein called "water rates") of The City of San Diego. The Council may provide and covenant that where the city furnishes water to the property receiving sewer service the sewer service charges shall be collected with and not separately from the water rates of said city and that all charges shall be billed upon the same bill and collected as one item and may also provide and covenant that in the event of nonpayment of any part of the bill for the sewer service charge and water rate, the water service shall be shut off within such time as may be or shall have been prescribed by the Council. Delinquent sewer service charges may be collected by suit in any court of competent jurisdiction. The Council may provide additional methods of collecting sewer service charges. The Council also may prescribe and establish penalties for the nonpayment of sewer service charges. The Council may take any and all steps to establish and provide for the collection of sewer service charges.

Subdivision B. All revenues shall be paid into the Sewer Revenue Fund and shall be used only for the following purposes: (1) paying the cost of maintenance and operation of the sewer system; (2) paying principal and interest (including payments into any reserve or sinking fund) and premiums, if any, upon redemption, of sewer revenue bonds issued under this section and payable from said Sewer Revenue Fund; (3) paying all or any part of the cost and expense of extending, reconstructing or improving the sewer system or any part thereof or making additions to such system; (4) transferring from any surplus in the Sewer Revenue Fund to the Capital Outlays Fund, at one time or from time to time, all or any part of the sums expended from said Capital Outlays Fund after July 1, 1960, for any purpose for which revenue bonds may be issued under this section; (5) paying from any surplus in the Sewer Revenue Fund principal or interest, or both, or any part thereof, of general obligation bonds heretofore or hereafter issued for any purpose for which revenue bonds may be issued under this section.

Any ordinance providing for the issuance of revenue bonds hereunder may contain covenants defining, limiting or restricting the use of moneys in said Sewer Revenue Fund and said covenants shall control so long as any bonds issued under said ordinance are outstanding and unpaid within the meaning of this section.

Subdivision C. Interest (including interest on investments) on the Sewer Revenue Fund or on any fund created by or under the authority of this section shall be credited to the particular fund.

Subsection 9.

Subdivision A. The City may issue general obligation bonds for sewer purposes. General obligation bonds of the city may also be issued to refund any revenue

bonds, principal, interest and premium, if any, issued under this section, if authorized by a two-thirds vote of the qualified electors of the city voting upon the question of the issuance thereof at an election called and held for that purpose. Such election may be called by ordinance in the same manner as any other special election is called under the charter of the city.

The city may expend funds derived from taxes for the acquisition and construction of sewers, and to the extent that may legally be done under this section may expend funds derived from taxes for the maintenance and operation of sewers, but no funds derived from taxes shall be considered revenues as in this section defined and no such funds derived from taxes shall be paid into the Sewer Revenue Fund and no revenue bond issued under this section or any interest thereon shall be or become an obligation chargeable or enforceable against any of the tax revenues of the city.

Subdivision B. The city may levy special assessments for the acquisition and construction of sewers or sewer works and such assessments shall not be construed as "revenues" as defined in this section and shall not be paid into the Sewer Revenue Fund.

Nothing in this section shall be construed to restrict the power of the city to consent to the formation or organization of special districts for the purpose of collection, transmission, treatment or disposal of sewage within portions of the city which are not at that time served by the city sewer system and which in the opinion of the Council cannot conveniently be served by or through the city sewer system. Before any such district is formed or organized which includes territory of the city therein the consent of the city to the inclusion therein of such territory shall be manifested by ordinance of the Council. The Council shall have authority to provide reasonable terms and conditions under which the portion of the city may be included in said district and upon which the district may operate its facilities within The City of San Diego.

Nothing in this section shall be construed as implying any doubt of the power of the city to establish and collect service charges for service by or for the use of sewers under its general charter powers.

Subsection 10. This section and every part thereof shall be liberally construed to promote the objects thereof and to carry out its intents and purposes.

If the application of any subsection, subdivision, paragraph, sentence, clause or word of this section to any person or circumstance is held invalid the application of such subsection, subdivision, paragraph, sentence, clause or word to any other person or in any other circumstance shall not be affected thereby. If any part of this section is held invalid the remainder of the section shall remain in full force and effect.

3. Repeal voted 06-07-2016; effective 07-18-2016

